

**SUMMARY REPORT OF INVESTIGATION**  
**City of Chicago Office of Inspector General Case # 15-0564**  
**(Lieutenant Anthony Wojcik)**  
**December 29, 2017**

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This report consists of a summary of the evidence set out in the attached investigative materials and the Office of Inspector General's (OIG's) analysis of that evidence. An index of the investigative materials is attached.

**I. INTRODUCTION**

An OIG investigation has established that Anthony Wojcik, a former Chicago Police Department (CPD) lieutenant who supervised CPD's investigation of the events culminating in Officer Jason Van Dyke's October 20, 2014 shooting of Laquan McDonald, violated CPD Rules and Regulations and brought discredit upon CPD by overseeing and participating in an untruthful, improperly documented, and unprofessional investigation of the shooting and by improperly disposing of material evidence during that investigation.

More specifically, and as detailed further below, Wojcik made false statements and misleading characterizations in CPD reports he authored and approved, which served to exaggerate the threat McDonald posed. Additionally, Wojcik improperly disposed of three original general progress reports containing CPD detectives' handwritten notes of the statements three civilian witnesses made the night of the shooting. Prior to disposing of the original reports, which disposal he failed to document, Wojcik personally recreated the reports. However, Wojcik did not ask the detectives who had taken the statements to review the recreated reports for accuracy and did not inform them of his recreation of their original reports until several months after CPD officially closed its investigation of the shooting. In addition, Wojcik failed to ensure that the McDonald investigative team documented its loss of three additional original general progress reports, which also contained statements made by the three civilian witnesses. Wojcik's actions brought discredit upon the department because they created the appearance of impropriety: namely, that Wojcik and the investigative team purposely destroyed evidence that ran counter to its findings.

Wojcik's actions, individually and collectively, violated CPD Rules 2 (engaging in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department), 3 (failing to promote the Department's efforts to implement its policy and accomplish its goals), 6 (disobedience of an order or directive, whether written or oral), 11 (incompetency in the performance of a duty), and 14 (making a false report, written or oral).

OIG would have recommended that CPD discharge Wojcik, but he resigned in May 2016 after OIG commenced this investigation. OIG therefore recommends that CPD issue a formal determination on OIG's findings, and place this report in Wojcik's personnel file for consideration in the event Wojcik applies for re-employment with the City. OIG further recommends that CPD, based on its findings, rescind Wojcik's retirement identification card and

retirement star, as Wojcik retired when he was the subject of an investigation that ultimately determined he engaged in misconduct warranting his discharge. In addition, OIG recommends that CPD communicate to the Illinois Retired Officer Concealed Carry (IROCC) program that Wojcik is not in “good standing” and should be removed from the program.

## **II. APPLICABLE RULES, REGULATIONS, AND LAW**

### **A. CPD Rules and Regulations**

The Rules and Regulations of the Chicago Police Department set out the standards of conduct and duties of sworn members, including supervisory members, as well as CPD goals. Article IV(C) of the Rules and Regulations states that sworn members must “conduct themselves at all times in such a manner as will reflect credit upon the Department with emphasis on personal integrity and professional devotion to law enforcement.” Article IV(B) provides that supervisory members “have the responsibility for the performance of all subordinates placed under them” and they “[r]emain accountable for the failure, misconduct or omission by their subordinates.”

Article V of the CPD Rules and Regulations, entitled CPD Rules of Conduct, sets forth specifically prohibited acts. In pertinent part, the CPD Rules of Conduct include the following prohibitions:

- Rule 2** Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3** Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
- Rule 6** Disobedience of an order or directive, whether written or oral.
- Rule 11** Incompetency or inefficiency in the performance of duty.
- Rule 14** Making a false report, written or oral.

### **B. CPD Bureau of Detectives Special Orders**

CPD Special Orders are directives that establish protocols and procedures concerning specific CPD functions, operations, programs, or processes.

Bureau of Detectives Special Order (BDSO) 14-13,<sup>1</sup> titled “Reporting Guidelines,” which was in effect from November 13, 2014, to January 1, 2015, and was then re-issued on January 1, 2015, as BDSO 15-13, states that “[i]t is the policy of the Bureau of Detectives to comprehensively and

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<sup>1</sup> In CPD documents, special orders governing the Bureau of Detectives are referred to as both Detective Division Special Orders and Bureau of Detectives Special Orders. Hereafter, they are referred to as Bureau of Detectives Special Orders (BDSOs).

accurately document all steps taken during the course of an investigation.”<sup>2</sup> The order further provides that “Bureau of Detectives supervisors are responsible for ensuring the timely submission and thorough review of all Supplementary Reports.”

BDSO 14-14, titled “Investigative Guidelines,” which was in effect from November 13, 2014, to January 1, 2015, and was then re-issued on January 1, 2015, as BDSO 15-14, states that it is “the responsibility of all members of the Bureau of Detectives to conduct thorough investigations into all criminal and certain non-criminal incidents, and to accurately document all interviews and investigative steps.”<sup>3</sup> The order further states that “[a]ll evidence, whether inculpatory or exculpatory, will be identified, preserved, and documented.” Pursuant to the order, “Bureau of Detectives supervisors are responsible for ensuring the timely and comprehensive progression of all investigations and that all leads have been thoroughly pursued.”

BDSO 14-17, titled “Police Involved Shooting Guidelines,” which was in effect from November 13, 2014, to January 1, 2015, and was then re-issued on January 1, 2015, as BDSO 15-17, states that Area Violent Crimes Lieutenants are to, among other tasks, “oversee and direct all aspects of the investigation.”<sup>4</sup>

BDSO 14-22, titled “Justifiable Homicides,” which was in effect from December 8, 2014, to January 1, 2015, and was then re-issued on January 1, 2015, as BDSO 15-22, outlines the protocols that CPD members in the Bureau of Detectives are to follow regarding justifiable homicides.<sup>5</sup> The order defines a justifiable homicide as either “the killing of a felon by a peace officer in the line of duty,” or “the killing of a felon by a private citizen during the commission of a felony.”<sup>6</sup> Section III of BDSO 14-22 outlines reporting procedures for justifiable homicides and requires that:

- A. “When an incident is determined to be a justifiable homicide, the assigned detective will obtain a second RD number. The first case will bear the classification of the crime the felon was committing. The second RD number

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<sup>2</sup> OIG 15-0564 009054-56 & OIG 15-0564 009012. BDSO 97-7, which was rescinded by BDSO 14-13 and went into effect in May 1997, provides that a detective’s investigation “must be thorough, careful and objective” and further states that a detective must “preserve evidence for collection and processing.” OIG 15-0564 009265-82.

<sup>3</sup> OIG 15-0564 009060-63. BDSO 14-14 rescinded BDSO 97-7. *See supra* Section II(B) n.2.

<sup>4</sup> OIG 15-0564 009068-71. BDSO 01-01, which went into effect on April 6, 2001, and was rescinded by BDSO 14-17, did not specifically detail a lieutenant’s responsibilities with respect to a police-involved shooting investigation.

<sup>5</sup> OIG 15-0564 009416-17. According to documents dated April 28, 2016 which OIG received from CPD, BDSO 15-22 remained in effect at least as of that date. BDSO 01-01, which BDSO 14-22 rescinded, also states that “[t]he facts detailing the entire investigation will be reported in the justifiable homicide report” and prohibits detectives from stating in their reports that the use of deadly force was justified. OIG 15-0564 009199-9207.

<sup>6</sup> OIG takes no position on whether the McDonald shooting was appropriately classified as a justifiable homicide, but rather notes that CPD reported the incident as such.

will be for the justifiable homicide. Detectives will not identify a person lawfully entitled to use deadly force as an ‘Offender.’

- B. The facts detailing the entire investigation will be reported in the justifiable homicide report.

**Note:** The narrative section of the original felony report will state, ‘The facts of this case are reported under RD# \_\_\_\_\_. For complete details, refer to that investigation.’

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- E. Detectives will state in their reports that no charges were placed at this time. They will not state that use of deadly force was justified.

### **III. LIEUTENANT WOJCIK’S EMPLOYMENT HISTORY**

Wojcik joined CPD in 1986 as a police officer. Wojcik became a lieutenant in 2008. He retired from CPD as a lieutenant on May 15, 2016.

### **IV. SUMMARY OF INVESTIGATION**

#### **A. Procedural History of OIG’s Investigation**

By letter, dated December 8, 2015, Independent Police Review Authority (IPRA) Acting Chief Administrator Sharon Fairley requested that OIG conduct an administrative investigation “to determine whether certain police officers/witnesses made false statements on official reports prepared in connection with [Van Dyke’s shooting of McDonald] and/or during the investigation of the incident.”<sup>7</sup> IPRA further requested that OIG investigate “whether any of the involved Chicago Police officers committed any other violation(s) of Chicago Police Department rules, policies or procedures in their involvement with the incident, including, but not limited to, whether any officers’ conduct may have interfered with or obstructed the appropriate investigation and handling of this matter.”

Then, by letter, dated January 13, 2016, CPD Interim Superintendent John J. Escalante requested that OIG conduct an “administrative investigation into any and all allegations of police officer misconduct” arising out of the October 20, 2014 shooting death of McDonald. The Superintendent’s request asked OIG to investigate the following allegations: “whether any officer(s) made false statements on official reports submitted in connection with the shooting of Laquan McDonald on October 20, 2014; whether any officer(s) obstructed or interfered with the

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<sup>7</sup> On November 24, 2015, the Cook County State’s Attorney charged Van Dyke with a single count of first degree murder in the shooting of McDonald. On December 15, 2015, it subsequently charged him with six counts of murder. OIG has not been involved with any criminal investigation related to the shooting and makes no findings regarding Van Dyke’s use of force.

investigation of this incident, either individually or in collusion with others; and whether any officer(s) committed any violation of Chicago Police Department rules, policies, or orders in connection with their response and/or handling of this matter.” Escalante attached to the letter request a copy of Sergeant Sandra Soria’s Initiation Report, which raises allegations of misconduct related to the in-car video systems of the vehicles that were present during the McDonald shooting, and identified that Report as a basis for OIG’s administrative investigation.

On March 10, 2016, Kevin Kilmer, Financial Secretary for the FOP, filed a grievance with CPD on behalf of all affected members stating that OIG’s attempts to conduct CPD officer interviews violated Article 6 of CPD’s Collective Bargaining Agreement (CBA) with the FOP.<sup>8</sup> On March 16, 2016, FOP on behalf of all impacted CPD officers filed a “Complaint for Injunction in Aid of Arbitration” in the Circuit Court of Cook County, asking the court to enjoin OIG from conducting interviews until the grievance was decided in arbitration.<sup>9</sup> The court dismissed the complaint and denied the injunction on March 22, 2016.

During the course of its investigation, OIG has gathered documents from CPD and IPRA, among other sources, and conducted numerous interviews, including interviews of several CPD personnel who were at or responded to the scene of the shooting and civilian witnesses to the shooting. To date, OIG has recommended disciplinary action against multiple CPD personnel.

## **B. The Events of October 20, 2014**

The following sections detail the shooting of McDonald, as well as the relevant events that occurred directly before and after the shooting.<sup>10</sup>

### **1. [REDACTED] and Rudy Barillas’s Encounter with McDonald<sup>11</sup>**

[REDACTED] and [REDACTED] Rudy Barillas, were parking a truck in a lot at 41st Street and Kildare Avenue when [REDACTED] saw a black male, whom she subsequently identified as McDonald,

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<sup>8</sup> Section 6.1, Paragraph I of the CBA states, “If the allegation under investigation indicates a recommendation for separation is probable against the Officer, the Officer will be given the statutory administrative proceeding rights, or if the allegation indicates criminal prosecution is probable against the Officer, the Officer will be given the constitutional rights concerning self-incrimination prior to the commencement of interrogation.” CPD General Order GO8-01-01, Paragraph K contains similar language.

<sup>9</sup> *Fraternal Order of Police, Chicago Lodge 7 v. City of Chicago*, No. 2016 CH 03726 (Cir. Ct. of Cook County, Ill., Mar. 16, 2016).

<sup>10</sup> On April 22, 2016, OIG obtained maps of the locations that are relevant to the shooting from Google Maps. Those maps, which are included in Appendix A, generally reflect the street layout and location of relevant businesses as they were on the night of October 20, 2014.

<sup>11</sup> The following account of [REDACTED] and Barillas’s encounter with McDonald is taken from the March 16, 2015 case supplementary report (CSR) submitted by then-CPD Detective David March, which includes the statements that [REDACTED] and Barillas provided to CPD on October 21, 2014, and October 22, 2014, respectively. OIG 15-0564 003077.

attempting to steal property from certain vehicles parked in the lot. Barillas told McDonald to leave the lot. McDonald responded by making growling noises. After Barillas again told McDonald to leave the lot, McDonald pulled out a knife and swung it at Barillas. Barillas, who had already called 911, then threw his cell phone at McDonald.<sup>12</sup> McDonald ran from the lot, first northbound on Kildare and then eastbound on 40th Street.

## 2. Officers Thomas Gaffney and Joseph McElligott's Encounter with McDonald<sup>13</sup>

Officer Thomas Gaffney and his partner Officer Joseph McElligott received a call over the radio that someone had broken into a truck at 4100 South Kildare and were dispatched to the scene.<sup>14</sup> Gaffney was driving, and McElligott was in the passenger seat of their assigned vehicle, 815R.<sup>15</sup> When they arrived at 4100 South Kildare, they saw a Hispanic male and female standing by the gate to the truck yard. The two said that a black male wearing a black shirt, later determined to be McDonald, had been trying to steal the radio out of a semi-truck, and had subsequently headed north toward 40th Street.

Gaffney and McElligott drove north on Kildare, turned right onto 40th Street, and saw McDonald walking east on the south side of 40th Street. McElligott exited the vehicle and commanded McDonald to stop and turn around. Gaffney stayed in the vehicle in case McDonald attempted to flee. McElligott ordered McDonald to take his hands out of his pockets. McDonald, who had been facing McElligott, turned and walked away with one hand still in his pocket.

<sup>12</sup> OEMC recordings reflect that Barillas called 911 at 9:45 p.m. stating that he was holding "a guy right hear [sic] that stolen [sic] the radios" from trucks in a truck yard located at "41st and Kildare." OIG 15-0564 003227.

<sup>13</sup> The following account of Gaffney and McElligott's encounter with McDonald is taken from (1) the audio-recorded statements Gaffney and McElligott provided to IPRA on October 21, 2014, OIG 15-0564 000482-98, 000610-30; and (2) the March 16, 2015 CSR submitted by Detective March, which includes the statements that Gaffney and McElligott provided to March on the night of the McDonald shooting. OIG 15-0564 003067-69.

<sup>14</sup> OEMC records reflect that Gaffney and McElligott received the call at 9:47 p.m. OIG 15-0564 003691.

<sup>15</sup> Below is a chart identifying the beat numbers and vehicle numbers of the CPD vehicles that were present when McDonald was shot, along with the names of the officers who were assigned to those vehicles. This SRI refers to the below-referenced vehicles by beat number, unless otherwise specified.

Beat #	Vehicle #	Officers
845R	6412	Officer Joseph Walsh (driver), Officer Van Dyke (passenger)
815R	8489	Officer Gaffney (driver), Officer McElligott (passenger and on foot)
813R	8779	Officer Janet Mondragon (driver), Officer Daphne Sebastian (passenger)
822	8765	Officer Arturo Becerra (driver), Officer Leticia Velez (passenger)
841R	8948	Officer Ricardo Viramontes (driver), Officer Dora Fontaine (passenger)



McDonald then turned again and took both of his hands out of his pockets. He had a knife in his right hand. McElligott drew his weapon and told McDonald to drop the knife. McDonald started walking east again, going from the sidewalk to the street and back. McElligott followed McDonald on foot, shining his flashlight on him, while Gaffney followed in 815R, parallel to McDonald.

As McDonald approached the intersection of 40th and Keeler, Gaffney reported to dispatch that McDonald was walking away with a knife in his hand.<sup>16</sup> Gaffney and McElligott continued to follow McDonald as he headed east, with McElligott giving McDonald orders to drop his knife and stop. McDonald kept turning around and giving the officers a “weird glaze[d] look.” Gaffney IPRA Tr. 11:20.<sup>17</sup>

As McDonald approached the intersection of 40th and Karlov, Gaffney turned his car toward McDonald to direct him down Karlov. Gaffney wanted to keep McDonald away from Pulaski, which was a more populated area. McDonald then swung his arm and popped 815R’s right front tire with his knife. McElligott was toward the back of 815R when McDonald popped its tire. After McDonald took a step back from the vehicle, Gaffney pulled up further in front of him to stop him from proceeding to Pulaski. McDonald then hit the right side of 815R’s windshield once with the knife in his right hand. The windshield did not break but, according to Gaffney, McDonald hit it as hard as he could. McDonald walked around the front of 815R and continued eastward on 40th Street. After McDonald had walked 10 to 15 feet, another squad car turned off of Pulaski onto 40th Street with its lights on, and McDonald began to sprint. McElligott followed McDonald on foot, and Gaffney followed McDonald in 815R. McDonald ran eastbound through a parking lot of a Burger King located at 40th and Pulaski and then headed southbound on Pulaski. Video footage from several cameras captured McDonald’s movements as he reached Pulaski.

### 3. Summary of the Relevant Video Footage

The below table contains a summary of the relevant video footage of the McDonald shooting, which includes the dashcam videos from 813R, 823R, and 845R, video from the “WNE fire exit” security camera from the Greater Chicago Food Depository, which is bordered by 40th Street to the north, Karlov Avenue to the east, and Keeler Avenue to the west, and the security camera video from the Dunkin’ Donuts, located at 4113 South Pulaski Road (the DD Camera).<sup>18</sup>

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<sup>16</sup> OEMC recordings reflect that, at 9:53 p.m., 815R reported: “We’re at 40th and Keeler. This guy uh is walking away from us and he’s got a knife in his hand.” Approximately 30 seconds later, a dispatcher stated, “815R looking for a taser.” See OEMC Documents and CDs; see also OIG 15-0564 003691, 3228.

<sup>17</sup> OIG 15-0564 000620.

<sup>18</sup> In addition to the videos cited in the summary, OIG obtained video footage from the security camera videos at Burger King and Focal Point, and the dash camera videos from Vehicles 815R and 821R. These videos do not contain footage relevant to this report.

Time	Event(s) Captured	Source of Video
9:53:17 – 9:54:42	McDonald walks eastbound on the south side sidewalk of 40th Street; a CPD SUV travels east on 40th Street, parallel to McDonald with its front bumper even with McDonald; an officer on foot trails directly behind McDonald by the length of the SUV, with his flashlight trained on McDonald. <sup>19</sup>	Greater Chicago Food Depository Security Camera
9:56:53 – 9:57:01	813R and 845R turn left onto 40th Street from Pulaski.	813R Dashcam
9:57:01– 9:57:09	An unidentified person on 40th Street points the CPD vehicles toward the Burger King parking lot (813R); 845R turns into the parking lot (813R). McDonald runs southeast through the Burger King parking lot out onto Pulaski (845R).	813R Dashcam; 845R Dashcam
9:57:09 – 9:57:20	845R drives over the curb and sidewalk north of Burger King and heads south on Pulaski (845R); 813R turns around, turns right onto 40th Street, and then right again on Pulaski (813R); McDonald runs southbound in the middle of Pulaski and enters the intersection of 41st Street and Pulaski (813R).	813R Dashcam; 845R Dashcam
9:57:20 – 9:57:25	845R, which is facing east/southeast on Pulaski just north of 41st street, turns right behind McDonald and proceeds south on Pulaski on the east side of the street; 845R's passenger door briefly opens and then closes as it passes McDonald on his left; McDonald continues southbound on Pulaski, toward 822, which is stopped in the middle of Pulaski facing north.	813R Dashcam
9:57:25 – 9:57:28	McDonald slows as he approaches 822, touches his hands to his waist, and then, before Walsh and Van Dyke exit 845R and with 822 situated between McDonald and the officers, McDonald extends his right arm fully to his right—the video shows that he has a silver object in his right hand; 845R passes 822 and comes to a stop on the east side of Pulaski, facing south and almost directly south of 822; Van Dyke opens 845R's passenger door.	813R Dashcam

<sup>19</sup> OIG confirmed the vehicle is 815R and the officer on foot is McElligott by comparing the video with photographs of the officers. OIG 15-0564 003356.



9:57:28 – 9:57:30	McDonald changes course and begins walking southwest on Pulaski, away from 822 and 845R (813R); Van Dyke exits the passenger side of 845R with both of his feet in Pulaski's northbound left turn lane, his gun drawn and pointed at McDonald (813R). Walsh exits the driver side of 845R, just east of Pulaski's northbound left turn lane, with his gun drawn, and moves north along the driver side of 845R until he is several feet north of 845R (DD Camera).	813R Dashcam; DD Camera <sup>20</sup>
9:57:30 – 9:57:33	McDonald continues to walk southwest, from the middle of Pulaski to the lane markers that divide the west side of the road (or approximately one lane west of where McDonald was prior to changing course) (813R). While McDonald walks southwest, Walsh begins moving sideways in a west/southwest direction, approximately parallel to McDonald, and crosses over the east side of Pulaski's northbound left-turn lane—his gun is pointed at McDonald (813R; DD Camera). Van Dyke takes approximately two steps northwest toward McDonald, with his left foot crossing into Pulaski's yellow-painted median strip—his gun is pointed at McDonald (813R; DD Camera). 822 drives north on Pulaski, away from 845R (813R).	813R Dashcam; DD Camera
9:57:33 – 9:57:36	As McDonald approaches the lane markers on the west side of Pulaski, walking in a southwest direction, he looks to his right and moves his right hand behind his waist, near the right side of his lower back, then brings his hand back to his right side (813R). As McDonald crosses the lane markers on the west side of Pulaski, he looks to his left, and takes a step southbound (813R). Meanwhile, Walsh continues moving west/southwest with his gun pointed at McDonald, ultimately traversing almost the entire width of Pulaski's northbound left-turn lane (813R; DD Camera). Van Dyke takes an additional step west, toward McDonald, putting both of his feet in Pulaski's median strip and placing himself almost directly between McDonald and Walsh (813R; DD Camera). McDonald is then apparently shot and Walsh stops moving and adopts a stance, with his feet more than a shoulder's width apart (813R; DD Camera).	813R Dashcam; DD Camera
9:57:36 –	McDonald spins between 180 and 270 degrees in a	813R Dashcam;

<sup>20</sup> The DD Camera video does not display an embedded timestamp. Therefore, OIG used the timestamp of 813R's video, which generally captured the same events as the DD Camera from a different angle, to establish the timeframe of the events captured by the DD Camera.

9:57:54	clockwise direction and then falls to the ground with the top of his head pointing south on Pulaski, approximately one street lane east of Van Dyke and just south of Van Dyke (813R). As McDonald falls to the ground, Van Dyke takes another step west toward McDonald, moving his right foot from Pulaski's median strip into the south-bound side of Pulaski; his gun remains pointed at McDonald (813R). Van Dyke subsequently takes an additional step or two south, toward McDonald. Other than those steps, Van Dyke's feet are stationary (DD Camera). After McDonald is on the ground, his legs and feet do not move (813R). McDonald's upper body makes small, intermittent movements as what appear to be puffs of smoke rise from McDonald's body (813R). <sup>21</sup>	DD Camera
9:57:54 – 9:58:05	An officer approaches McDonald and kicks the knife from his hand. McDonald does not make any noticeable movements.	813R Dashcam
9:58:05- 9:58:20	McDonald lies on the ground; no aid is rendered by CPD personnel. 823R, travelling northbound, pulls up on the west side of Pulaski, and stops just south of where McDonald is lying.	813R Dashcam; 823R Dashcam
9:58:20- 9:58:57	Several CPD officers walk and stand near McDonald as he lies on the ground; no aid is rendered by CPD personnel.	813R Dashcam; <sup>22</sup> 823R Dashcam
9:58:57- 9:59:02	823R begins making a U-turn on Pulaski. A Cook County Sheriff's Police Department (CCSPD) officer puts on blue gloves and walks toward McDonald. <sup>23</sup> McDonald is no longer visible in the video frame.	823R Dashcam

<sup>21</sup> OEMC records show that dispatch received notice to send an ambulance to the scene at 9:57:51. OIG 15-0564 003691.

<sup>22</sup> The last time stamp visible on the 813R dashcam video is 9:58:55.

<sup>23</sup> OIG identified the CCSPD officer as Officer Adam Murphy.

### C. CPD's Reports Regarding the McDonald Investigation

#### 1. Case Supplementary Report, "Sup ID" 10992767 CASR301<sup>24</sup>

On March 16, 2015, Wojcik approved case supplementary report RD #HX-475653, with "Sup ID" 10992767 CASR301 (the "301 CSR"), that Detective March submitted on March 15, 2015.<sup>25</sup> The report is titled as a "Field Investigation Exc. Cleared Closed (Other Exceptional) Report." It lists the original and last "Offense Classification" as "Assault/Aggravated Po: Knife/Cut Instr.," the "Date of Occurrence" as October 20, 2014, at 9:57 p.m., and the "Address of Occurrence" as 4112 S. Pulaski Rd. Further, it lists Van Dyke, Walsh, Gaffney, and McElligott as the victims, McDonald as the offender, March as the reporting officer and primary detective assigned, and Wojcik as the approving supervisor. It is signed as the "report of" March, Gallagher, and Wojcik of the Bureau of Detectives – Area Central.<sup>26</sup>

The 301 CSR contains, among other information, summaries of the interviews March conducted of the officers who were present when Van Dyke shot McDonald, as well as summaries of the interviews CPD detectives conducted of civilian witnesses to the events of October 20, 2014.

##### a) *Officer Statement Summaries*

##### (1) Van Dyke

The 301 CSR includes summaries of the statements that Van Dyke provided to March on October 20, 2014, and October 21, 2014, respectively. The following is an excerpt of Van Dyke's October 20, 2014 statement:

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<sup>24</sup> OIG 15-0564 003057-79.

<sup>25</sup> CPD reported its investigation of the events that culminated in the McDonald shooting under record number HX-475653, and classified most of the reports as an investigation into an aggravated assault in which McDonald was the offender. In a few reports, CPD classified the case as an investigation into a justifiable homicide of which McDonald was the victim. CPD also created an additional record number, HX-486155, which it classified as a justifiable homicide.

<sup>26</sup> On March 16, 2015, hours after Wojcik approved the CSR, CPD Lieutenant Osvaldo Valdez sent an email to Wojcik and Gallagher, copying Roy. OIG 15-0564 015738-41. The email was part of a chain of emails between Valdez and the FBI, and stated as follows:

All[,] See attached spread sheet that was provided by the FBI. It is regarding L[aw]E[nforcement]O[fficer]'s killed or assaulted and injured in the line of duty in which offenders used a knife/other cutting instrument. After a quick review of the report there were a couple things that stood out. These are incidents where an officer is assaulted and injured or killed by an assailant with a knife between the years of 2004 – 2013. 1. Out [of ] 382 incidents, there are 2 incidents that resulted in the officer being killed. Interesting to note would be to determine what the distance between the offenders and the officers were as the shots were fired that resulted in fatality. 2. There are only 32 incidents where assisting officer shot there [sic] weapon as well. This was a question that was brought up, 'why didn't the other officers shoot?' I will ask if I can get more details.

Officer Van Dyke exited the vehicle on the right side and drew his handgun. As Van Dyke stood in the street on Pulaski, facing northbound, toward McDonald, McDonald approached southbound. McDonald was holding the knife in his right hand, in an underhand grip, with the blade pointed forward. He was swinging the knife in an aggressive, exaggerated manner. Van Dyke ordered McDonald to “Drop the knife!” multiple times. McDonald ignored Van Dyke’s verbal direction to drop the knife and continued to advance toward Van Dyke.

When McDonald got to within 10 to 15 feet of Officer Van Dyke, McDonald looked toward Van Dyke. McDonald raised the knife across his chest and over his shoulder, pointing the knife at Van Dyke. Van Dyke believed McDonald was attacking Van Dyke with the knife, and attempting to kill Van Dyke. In defense of his life, Van Dyke backpedaled and fired his handgun at McDonald, to stop the attack. McDonald fell to the ground but continued to move and continued to grasp the knife, refusing to let go of it. Van Dyke continued to fire his weapon at McDonald as McDonald was on the ground, as McDonald appeared to be attempting to get up, all the while continuing to point the knife at Van Dyke. The slide on Van Dyke’s pistol locked in the rearward position, indicating the weapon was empty. Van Dyke performed a tactical reload of his pistol with a new magazine and then assessed the situation.

McDonald was no longer moving and the threat had been mitigated, so Officer Van Dyke and Officer Walsh approached McDonald. McDonald was still holding the knife in his right hand. Van Dyke continued to order McDonald to “Drop the knife!” Officer Walsh told Van Dyke, “I have this.” Van Dyke then used his handgun to cover Walsh as Walsh walked up and forcibly kicked the knife out of McDonald’s right hand, thereby eliminating the threat to the officers.

The 301 CSR summarized Van Dyke’s October 21, 2014 statement in relevant part as follows:

[Van Dyke] related the same sequence of events as documented in his original interview at the scene of the incident.

Van Dyke additionally articulated the reasoning behind his decision to use deadly force against the offender in this incident, Laquan McDonald. Van Dyke was aware of the radio transmissions from Officer Thomas Gaffney, on Beat 815R, that McDonald was armed with a knife. Van Dyke was aware that McDonald had attacked the officers on Beat 815R by slashing the tire of their police vehicle.

As he confronted McDonald at 4112 South Pulaski Road, Van Dyke saw that McDonald was in fact, armed with a knife, a deadly weapon. Van Dyke was aware of the widely accepted teaching in law enforcement that an assailant armed with a knife was considered a deadly threat, if within 21 feet, because it was possible for such an assailant to close that distance and attack with the knife before a defensive shot could be fired from a handgun. Van Dyke was also aware

of the existence of throwing knives, which can be thrown from a distance, as well as spring loaded knives, which propel a blade through the air from the knife handle. Van Dyke also said he recalled a previously issued Chicago Police Department bulletin warning of a weapon which appeared to be a knife but which actually was capable of firing a bullet, making it a firearm.<sup>27</sup>

The 301 CSR notes that a search was subsequently conducted for the bulletin Van Dyke referenced and that an “Officer Safety Alert number 2012-OSA0297,” issued on December 4, 2012, was located. *See* OIG 15-0564 003074. March wrote that “[i]t was a warning regarding a ‘revolver knife’ which was capable of firing .22 caliber cartridges.”

(2) Walsh

The following is an excerpt of Walsh’s October 20, 2014 statement:

As McDonald ran southbound on Pulaski Road, from the Burger King, Walsh pursued McDonald in the police vehicle. Walsh drove southbound in the northbound lanes to get ahead of McDonald, keeping the police vehicle between McDonald and a Dunkin’ Donuts restaurant, on the east side of Pulaski. As their vehicle passed McDonald, Officer Van Dyke opened the right front door of their vehicle, to exit the truck and confront McDonald. Walsh, realizing that at this point they were too close to the armed McDonald to safely exit the vehicle, told Van Dyke to wait until they got further ahead of McDonald. Walsh drove further south on Pulaski. He stopped his vehicle south of McDonald and exited the driver’s door as Van Dyke exited the right side of the vehicle. Walsh drew his handgun when he exited the vehicle.

Officer Walsh came around the rear of the police vehicle and joined Officer Van Dyke on the right side of the vehicle. Walsh also stood in the street on Pulaski, facing northbound, as McDonald walked southbound toward the officers. Walsh ordered McDonald to “Drop the knife!” multiple times as McDonald approached the officers.

Officer Walsh also backed up, attempting to maintain a safe distance between himself and McDonald. McDonald ignored the verbal direction given by both Walsh and Officer Van Dyke, and continued to advance toward the officers. When McDonald got to within 12 to 15 feet of the officers he swung the knife toward the officers in an aggressive manner. Van Dyke opened fire with his handgun and McDonald fell to the ground. Van Dyke continued firing his weapon

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<sup>27</sup> Detective March completed two GPRs relating to his interviews of Van Dyke that contains March’s handwritten notes of the interviews. OIG 15-0564 003239-41 & 003254. March’s notes do not differ in any significant way from the summary of Van Dyke’s October 20, 2014 statement in the CSR. March’s notes of Van Dyke’s October 21, 2014 statement state: “Same details. Added: Aware of radio transmissions (Gaffney)[;] armed w/knife[;] attacked 815R-slashed tire. Aware of – 21’ rule[;] throwing knives[;] spring loaded knife[;] previous bulletin[;] knife actually fires bullet. Officer safety alert #2012-05A-297 04 Dec 2012.”

at McDonald as McDonald continued moving on the ground, attempting to get up, while still armed with the knife.

When the gunfire stopped and McDonald was not moving anymore, Walsh approached McDonald with Van Dyke. Walsh continued to order McDonald to “Drop the knife!” multiple times, as McDonald was still holding the knife in his right hand. Walsh forcibly kicked the knife out of McDonald’s hand and then notified the dispatcher on the police radio that shots had been fired by the police. An ambulance was also requested for McDonald.

As they waited for the ambulance to respond to the scene, Officer Walsh told McDonald to ‘hang in there,’ and that an ambulance was on the way.

Officer Walsh said he believed McDonald was attacking Walsh and Officer Van Dyke with the knife and attempting to kill them when the shots were fired. Walsh stated he did not fire his handgun because Van Dyke was in the line of fire between Walsh and McDonald. Walsh thought Van Dyke fired eight or nine shots total.<sup>28</sup>

### (3) Fontaine

The 301 CSR summarizes Fontaine’s October 20, 2014 statement in relevant part as follows:

The two officers responded to the request for assistance made by Beat 815R, regarding a man with a knife at 41st Street and Pulaski Road. Officer Viramontes drove northbound on Pulaski. When they arrived at the scene of this incident, in front of the Dunkin’ Donuts restaurant, Officer Fontaine saw a black male subject, now known as Laquan McDonald, walking southbound in the street, with a knife in his right hand. McDonald was walking sideways, with his body facing east, toward Officers Jason Van Dyke and Joseph Walsh. These two officers were standing in the middle of the street, on the right side of their police vehicle, which was facing southbound. Fontaine heard the officers repeatedly order McDonald to “Drop the knife!” McDonald ignored the verbal direction and instead, raised his right arm toward Officer Van Dyke, as if attacking Van Dyke.<sup>29</sup> At this time Van Dyke fired multiple shots from his handgun, until McDonald fell to the ground and stopped moving his right arm and hand, which still grasped the knife. The

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<sup>28</sup> Detective March completed a GPR relating to his interview of Walsh that contains March’s handwritten notes of the interview. OIG 15-0564 003242–43. March’s notes do not differ in any significant way from the summary of Walsh’s statement in the CSR.

<sup>29</sup> In her OIG interview, Officer Fontaine denied making this statement, and she declined to stand by it as accurate. Fontaine Tr. 34:23-35:1; 116:18.



gunshots were rapid fire, without pause. Officer Walsh then kicked the knife out of McDonald's hand.<sup>30</sup>

(4) Viramontes

The 301 CSR summarizes Viramontes's October 20, 2014 statement in relevant part as follows:

[W]hen [Viramontes] exited his police vehicle, at the scene, he observed a black male subject, now known as Laquan McDonald, walking southbound on Pulaski Road, in the middle of the street, holding a knife in his right hand. Viramontes heard Officer Jason Van Dyke repeatedly order McDonald to "Drop the Knife!" McDonald ignored the verbal direction and turned toward Van Dyke and his partner, Officer Joseph Walsh. At this time Van Dyke fired multiple shots from his handgun. McDonald fell to the ground but continued to move, attempting to get back up, with the knife still in his hand. Van Dyke fired his weapon at McDonald continuously, until McDonald was no longer moving.<sup>31</sup>

(5) Sebastian

The 301 CSR summarizes Sebastian's October 20, 2014 statement in relevant part as follows:

Officer Sebastian observed a black male subject, now known as Laquan McDonald, running southeast bound through the parking lot of the Burger King restaurant. Beat 845R pursued McDonald in their police vehicle, through the parking lot, toward Pulaski. Sebastian told Officer Mondragon to drive back out onto Pulaski to assist in the pursuit. McDonald ran out onto Pulaski and continued to run southbound down the middle of the street. Beat 845R pursued McDonald in their vehicle, southbound on Pulaski, followed by Beat 813R. As McDonald ran southbound on Pulaski, Sebastian saw the knife in his right hand. McDonald was waving the knife.

Beat 845R stopped their vehicle ahead of McDonald, between McDonald and the Dunkin' Donuts restaurant on the east side of Pulaski. Officers Joseph Walsh and Jason Van Dyke exited their vehicle and drew their handguns. McDonald turned toward the two officers and continued to wave the knife. Sebastian heard the officers repeatedly order McDonald to "Drop the knife!" McDonald ignored the verbal directions and continued to advance on the officers, waving the knife. Officer Sebastian heard multiple gunshots and McDonald fell to the ground,

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<sup>30</sup> Detective March completed a GPR relating to his interview of Fontaine that contains March's handwritten notes of the interview. OIG 15-0564 003252. March's notes do not differ in any significant way from the summary of Fontaine's statement in the CSR.

<sup>31</sup> Detective March completed a GPR relating to his interview of Viramontes that contains March's handwritten notes of the interview. OIG 15-0564 003253. March's notes do not differ in any significant way from the summary of Viramontes's statement in the CSR.

where he continued to move. Sebastian did not know who fired the shots, which were fired in one continuous group. She then saw Officer Walsh kick the knife out of McDonald's hand.<sup>32</sup>

(6) Mondragon

The 301 CSR summarizes Mondragon's October 20, 2014 statement in relevant part as follows:

[Mondragon] stated she was a Chicago Police Officer assigned to the 008th District. Mondragon related the same facts as her partner, Officer Daphne Sebastian.

Officer Mondragon added that as she drove westbound on 40th Street, she saw Officer McElligott running eastbound through the Burger King parking lot. She made a U-Turn and drove back out onto Pulaski Road. Mondragon turned southbound onto Pulaski. She saw Laquan McDonald running southbound on Pulaski, in the middle of the street. As she got closer she could see McDonald was holding a knife in his right hand. He was waving the knife.

Officer Mondragon saw Officers Joseph Walsh and Jason Van Dyke outside of their police vehicle. She heard the officers repeatedly ordering McDonald to "Drop the knife!" as McDonald got closer and closer to the officers, continuing to wave the knife. As she was placing her vehicle transmission into Park, Mondragon looked down and heard multiple, continuous gunshots, without pause. Mondragon then saw McDonald fall to the ground. Mondragon did not know who fired the shots.<sup>33</sup>

*b) The 301 CSR Findings and Conclusions*

The 301 CSR includes several findings and conclusions regarding the shooting. Specifically, it states that "[t]he recovered in-car camera video from Beats 845R and 813R was viewed and found to be consistent with the accounts of all of the witnesses." OIG 15-0564 003075. It further states:

The above to-date investigation determined that Laquan McDonald was an active assailant who, while armed with a dangerous weapon, used force likely to cause death or serious injury to a private citizen when he attacked Rudy Barillas; threatened the imminent use of force likely to cause death or serious injury when

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<sup>32</sup> Detective March completed a GPR relating to his interview of Sebastian that contains March's handwritten notes of the interview. OIG 15-0564 003248. March's notes do not differ in any significant way from the summary of Sebastian's statement in the CSR.

<sup>33</sup> Detective March completed a GPR relating to his interview of Mondragon that contains March's handwritten notes of the interview. OIG 15-0564 003249. March's notes do not differ in any significant way from the summary of Mondragon's statement in the CSR.

he incised the tire and stabbed the windshield of a Chicago Police Department vehicle occupied by Officer Thomas Gaffney; and initiated imminent use of force likely to cause death or serious injury when he initiated an attack on Officers Jason Van Dyke and Joseph Walsh. The above investigation concluded that Officer Jason Van Dyke's use of deadly force, the discharging of his duty firearm, was within the bounds of the Chicago Police Department's use of force guidelines, and in conformity with local ordinances and state law.

OIG 15-0564 003078. On March 15, 2015, at 5:33 p.m., less than an hour before March submitted the CSR, Wojcik emailed March a Microsoft Word document titled "Conclusion." The word document contains language almost identical to the above-quoted paragraph.<sup>34</sup>

## 2. The 339 CSR's Narrative and Findings

On March 16, 2015, Wojcik approved a second RD #HX-475653 CSR, submitted by March on March 15, 2015, with Sup ID 10988891 CASR339 (the "339 CSR").<sup>35</sup> The 339 CSR contains, among other information, an inventory of the evidence recovered and an identification of the personnel assigned to the case and the witnesses to the relevant events. Like the 301 CSR, the 339 CSR lists Van Dyke, Walsh, Gaffney, and McElligott as the victims, McDonald as the offender, March as the reporting officer and primary detective assigned, and Wojcik as the approving supervisor. It is signed as the "report of" March, Gallagher, and Wojcik of the Bureau of Detectives – Area Central.

The "Manner/Motive" section of the 339 CSR states as follows:

Laquan McDonald was shot and killed by Chicago Police Officer Jason Van Dyke while McDonald was committing an aggravated assault with a knife against Officer Van Dyke and his partner, Chicago Police Officer Joseph Walsh. McDonald also committed an aggravated assault with a knife against Chicago Police Officers Thomas Gaffney and Joseph McElligott, when McDonald stabbed the right front tire and windshield of their police vehicle, and an aggravated assault with a knife against civilian, Rudy Barillas, immediately prior to being confronted by Officers Van Dyke and Walsh. / Peace officer interceding in a

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<sup>34</sup> On March 13, 2015, two days prior to March's submittal of the 301 CSR, Wojcik sent an email to March with the subject line "Arrest Info." Attached to the email was a Microsoft Word document titled "Arrest History Johnson," that stated as follows: "Twenty-Six (26) total arrests with various charges lodged prior to this incident – including Aggravated Battery to Peace Officer, Battery, Assault, Reckless Conduct, Possession of Controlled Substance and Possession Cannabis, with some offenses having occurred during instruction on school grounds, while in state detention/custody, and during courtroom proceedings. During twelve (12) of the arrest incidents McDonald attempted to defeat arrest by fleeing on foot and/or actively physically resisting." OIG 15-0564 010334-35. The document does not reflect why it is titled "Arrest History Johnson."

<sup>35</sup> OIG 15-0564 003034–56.

felony, in the line of duty-Defense of life (Offender apparently attempting to defeat arrest).<sup>36</sup>

The “Just Homicide Description” section of the 339 CSR states: “Criminal Killed By Police Officer.”<sup>37</sup> The “Additional Just Homicide Descr.” section of the 339 CSR states: “Criminal Attacked Officer That Officer Killed Criminal.”

### 3. HX-486155 Case Incident Report<sup>38</sup>

On October 29, 2014, March submitted an Original Case Incident Report under RD #HX-486155, with the event number of 1430116812 and the “Case ID” of 9837884 CASR229. The report identifies March as the Reporting Officer and Detective/Investigator, and Gallagher as the Approving Supervisor. The report classifies the incident as “Assault – Aggravated; Knife/Cutting Instr,” and lists the “Occurrence Location” as 4101 S. Kildare Blvd. and the “Occurrence Date” as October 20, 2014, at 9:47 p.m. The report identifies Rudy Barillas as the victim, Gaffney, Van Dyke, and Walsh as additional victims, and McDonald as “Suspect # 1.” The narrative section of the report states as follows:

The offender in this incident, Laquan McDonald, committed an aggravated assault against the victim, Rudy Barillas, by attempting to cut Barillas with a knife. Barillas called 9-1-1. Chicago Police Officers Thomas Gaffney, Jason Van Dyke and Joseph Walsh responded to Barillas’ call. McDonald committed aggravated assaults against the three officers, finally forcing Officer Van Dyke, in defense of his life, to shoot and kill McDonald. Details of this investigation are reported under the Homicide/Justifiable, recorded under Records Division number HX475653.

#### **D. Civilian Witness Statements**

Eric Gonzalez, Alma Benitez, and Robert Garcia, who were witnesses to the events of October 20, 2014, provided statements to CPD and OIG, among others, regarding what they witnessed. Below is a summary of those statements.

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<sup>36</sup> OIG 15-0564 003047-48.

<sup>37</sup> OIG 15-0564 003036.

<sup>38</sup> OIG 15-0564 003299-300.

1. Eric Gonzalez<sup>39</sup>*a) 301 CSR Summary*

Eric Gonzalez provided a statement to CPD the night of October 20, 2014 that is summarized in the 301 CSR as follows:

[Gonzalez] stated he was at the Burger King restaurant drive-thru with Alma Benitez. He saw a black male subject, now known as Laquan McDonald, running from the trucks parked at the rear of the restaurant parking lot. McDonald ran eastbound in the parking lot, on the north side of the Burger King building. A police officer was chasing McDonald on foot, eastbound through the parking lot, then southbound on Pulaski Road. A Chicago Police Department, Chevrolet Tahoe sport utility vehicle pulled up on Pulaski. McDonald ran toward the police vehicle. A police officer exited the vehicle and fired multiple shots from a handgun at McDonald. [Gonzalez] thought there was video footage of the incident recorded on Benitez' cellular telephone. As documented in the previous interview of Benitez, her telephone was examined with negative results.

*b) OIG Interview*

On February 16, 2016, OIG interviewed Gonzalez. Attorney Molly Armour was present for the interview. In summary, Gonzalez stated as follows. Gonzalez saw McDonald running south from the Burger King parking lot toward Pulaski. According to Gonzalez, McDonald was being chased by two officers, one of whom was driving and one of whom was on foot. Gonzalez subsequently heard multiple gunshots, but he could not see McDonald being shot because a construction fence was blocking his view. Gonzalez denied telling the police that McDonald ran toward a police vehicle and said that McDonald was running from the police not toward them.

## 2. Robert Garcia

*a) 301 CSR Summary*

Robert Garcia provided a statement to CPD the night of October 20, 2014 that is summarized in the 301 CSR as follows:

[Garcia] stated he was sitting in a truck, parked in the Burger King restaurant parking lot, on the south side of the restaurant building. He was completing some logs. Garcia observed a black male subject, now known as Laquan McDonald, running southbound on Pulaski Road. The police were pursuing McDonald. Garcia heard approximately three gunshots. He did not see who fired the shots. Garcia exited the cab of his truck and climbed up on top of it. He saw a Chicago

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<sup>39</sup> The 301 CSR refers to Gonzalez as Eddie Garcia. In Gonzalez's February 16, 2016 OIG interview, summarized below, he said that he gave CPD the wrong name on October 20, 2014.

Police Department, Chevrolet Tahoe sport utility vehicle, and many police officers on Pulaski Road.

*b) OIG Interview*

On February 16, 2016, OIG interviewed Garcia. Attorney Michael Robbins was present for the interview. In summary, Garcia stated as follows. Garcia saw McDonald running south on Pulaski with an officer in pursuit on foot behind him. Garcia, while half inside his truck cab completing truck logs, heard three shots, looked up, but could not see McDonald anymore. According to Garcia, he climbed to the top of his truck cab and was able to “see the officer right in front of his Tahoe and just unloading the other 13 shots.” Garcia Tr. 17:23-18:1. Garcia said that McDonald was “permanently down” after the first set of shots. Tr. 22:7. Garcia said that he described McDonald’s shooting as an “execution” to CPD detectives, but could not remember if he did so at the scene or at Area Central. Tr. 44:19, 77:19-78:5. Garcia said that the GPR of his interview, which stated that he did not see McDonald get shot, was a misrepresentation of his statement because he told detectives that he did see shots fired and that they were “unnecessary.” Tr. 91:15.

3. Alma Benitez

*b) 301 CSR Summary*

Alma Benitez provided a statement to CPD the night of October 20, 2014 that is summarized in the 301 CSR as follows:

[Benitez] stated she was in the Burger King restaurant parking lot. She saw a subject, now known as Laquan McDonald, running southbound on Pulaski Road. Benitez saw many police officers on the street. She was trying to get her cellular telephone to work, to record video. Benitez heard eight gunshots fired continuously. She did not see who fired the shots. Benitez then saw a police officer pointing a handgun at McDonald as he was lying on the ground. With her permission, Benitez’ telephone was examined for any recorded video footage with negative results.

*c) OIG Interview*

On February 16, 2016, OIG interviewed Benitez. Attorney Shannon Lynch was present for the interview. In summary, Benitez stated as follows. While Benitez was outside of her car, she saw a CPD officer come out of a squad car and try to grab McDonald. The officer pulled away when he got near McDonald. According to Benitez, she then got back in her car, parked it, and got out of the car again. She subsequently heard gun shots, looked up and saw McDonald fall to the ground. Benitez heard more gunshots and yelled, “Stop shooting! He’s dead already.” Benitez Tr. 21:18-19. CPD officers heard her yelling and told her to leave the scene. Benitez said that she did not give CPD permission to examine her phone and further stated that she told CPD detectives that a CPD officer tried to grab McDonald.



#### 4. GPRs

There are three General Progress Reports (GPRs) that relate to the CPD interviews of Gonzalez, Benitez, and Garcia.<sup>40</sup> Each of those GPRs has Lieutenant Anthony Wojcik's name and star number listed under "Reporting Officer's Signature – Star No." OIG 15-0564 003284-86. The handwritten notes contained in those GPRs do not differ in any significant way from the summary of their statements in the CSR.

On the GPR that relates to the Eric Gonzalez interview, dated October 20, 2014, there are two notations stating that the GPR is a copy of Detective Thomas Curran's GPR. One of the notations has what appears to be Wojcik's signature and star number next to it.

On the GPR relating to the Benitez interview, dated October 20, 2014, there are two notations stating that the GPR is a copy of Detective Thomas Curran's GPR. One of the notations has what appears to be Wojcik's signature and star number next to it.

On the GPR relating to the Robert Garcia interview, dated October 20, 2014, there are two notations stating that the GPR is a copy of Detective Pete Torres's GPR. One of the notations has what appears to be Wojcik's signature and star number next to it.

#### E. CPD Interviews

##### 1. March<sup>41</sup>

On April 26 and April 27 of 2016, OIG investigators interviewed March under oath after informing him of his administrative advisements orally and in writing. He provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter. Attorney James McKay was present for the interview. In summary, March stated as follows.

As of October 20, 2014, March was a CPD detective assigned to Area Central. March worked on a homicide team supervised by Gallagher. That team had two lieutenants, Wojcik and Osvaldo Valdez. Their commander at the time was Eugene Roy.

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<sup>40</sup> BDSO 11-01, titled "Investigative Files," which was in effect until January 1, 2015, defines "General Progress Report" as follows: "A General Progress Report will be used by all Division members and is designed to standardize the recording of handwritten notes and memoranda including witness or suspect interviews, on-scene canvasses, written inter-watch communications that are investigative and not administrative in nature, or any other written notes generated during the course of an investigation." OIG 15-0564 009118.

<sup>41</sup> March resigned from City employment in response to the SRI OIG issued on July 29, 2016, which arose out of this same case.

*a) The Scene of the Shooting*

On the night of October 20, 2014, March was on-duty at Area Central headquarters when he received a call from Gallagher. Gallagher informed him that there had been a police-involved shooting and that the case was going to be assigned to March. March then drove to the scene of the shooting by himself.

While at the scene, March spoke to the ten officers who were present when Van Dyke shot McDonald, including Van Dyke and Walsh, but he did not recall the order in which he did so.

After March had his initial conversation with Walsh, he went to 813R and saw the dashcam video captured by 813R's in-car video system on a small monitor in the vehicle. March estimated that he ultimately watched the 813R video three to five times at the scene of the shooting. March also watched the Dunkin' Donuts video at the scene of the shooting.<sup>42</sup>

March did not recall having much contact with Wojcik at the scene. According to March, Wojcik arrived at the scene quite a bit later than March did because Wojcik was coming from his home.<sup>43</sup> March left the scene of the shooting "well after midnight" and drove to Area Central. March 4/26/16 Tr. 155:22.

*b) Area Central*

Once March arrived at Area Central, he collected documentation from the police personnel involved in the investigation, including the original case report authored by an 8th District beat car, the reports concerning the activities of the forensics services people, and the other detectives' GPRs. March did not recall whether he saw Wojcik at Area Central.

*c) Post-Area Central Investigative Activities*

On October 29, 2014, March submitted an Original Case Incident Report with the RD number HX486155. With respect to the new RD number, March explained that pursuant to the FBI's Uniform Crime Reporting guidelines, once a detective concludes that an incident is a justifiable homicide, he or she must generate a second reporting number. With respect to the McDonald investigation, it was originally reported as an assault on a peace officer with a knife because Van Dyke and Walsh were saying that McDonald had assaulted them with a knife. The investigation continued under that designation "until we became confident that it was – you know, the justifiable homicide and then we created the second [number]." 4/27/16 Tr. 108:3-5.

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<sup>42</sup> Former CPD Deputy Chief David McNaughton, who responded to the scene of the shooting, stated in his May 25, 2016 OIG interview that Wojcik saw the 813R dashcam video of the shooting several times while at the scene on October 20, 2014.

<sup>43</sup> CPD Lieutenant Osvaldo Valdez stated in his July 12, 2016 OIG interview that while he was at the scene of the shooting he was informed by one of the sergeants that Wojcik had responded to a CPD notification and would be taking over the investigation.

With respect to jurisdiction, March stated that, at the time of the shooting, for any incident where a police officer fires his handgun, CPD would conduct the “underlying criminal investigation,” and IPRA would investigate whether the officer’s use of the firearm or deadly force was appropriate. 4/27/16 Tr. 108:23. At the time of the McDonald investigation, “the Department’s policy was to never make a statement of – as to the justifiability as to the use of force because IPRA was conducting their investigation. We would just, you know, draw conclusions based on our investigation but not make a final statement as to whether or not the officer was justified.” 4/27/16 Tr. 117:1-9. March added: “it’s not our responsibility to make that determination as far as justifiable, and we really aren’t permitted to.” 4/27/16 Tr. 118:3-5.

During the course of the investigation, there were multiple meetings involving March and some combination of the following individuals: Wojcik, Gallagher, Detective Richard Hagen, Valdez, and Roy. According to March, “[a]t some of those meetings, we actually played the video again and reviewed to get, you know, everyone’s – weigh in with their opinion. And everyone was in agreement with the investigation and the conclusions reached as documented in this report.” 4/27/16 Tr. 72:8-13.

*d) The CSRs*

In November and December 2014, March worked on the drafting of the CSRs “as much as [he] could.” 4/26/16 Tr. 250:24-251:1. March described the investigation as a “major case” and said: “They don’t get much bigger in terms of priority.” 4/26/16 Tr. 250:23-4.

In January 2015, March and Wojcik learned that police officers with involvement in the McDonald shooting were being subpoenaed by the Cook County State’s Attorney’s Office and the FBI. March did not recall where or from whom he received this information. As a result, Wojcik told March to “hold off on doing anything” until they got some answers from their chain of command regarding the additional investigation. 4/26/16 Tr. 251:19. The investigation was put on hold from the beginning of January to the beginning of March. In March, around the time the City was negotiating a settlement with McDonald’s family, Commander Roy ordered that the reports be done right away. Roy gave that order to Wojcik, and Wojcik communicated it to March. March believed that directive was prompted by the legal settlement.

Upon receiving the order, March created the original draft of the 301 CSR, and then Gallagher and Wojcik reviewed it. March explained: “Gallagher and Wojcik and I worked together, you know, to—rather than dumping it all on one guy, the three of us worked together.” 4/26/16 Tr. 260:12-15. March noted that Wojcik conducted an analysis of McDonald’s arrest record and also “drafted a suggestion, if you will, for the conclusions for the investigation.” 4/26/16 Tr. 260:18-20. With respect to the conclusion, March explained: “Our conclusion was we didn’t find anything wrong with what Jason Van Dyke did and, therefore, the way we stated – when I say, ‘we,’ Gallagher agreed with me, Wojcik agreed with me. We found that his actions were in conformity with the Department – or within the bounds of the Department’s use of force guidelines and in conformity with local laws and state law.” 4/27/16 Tr. 117:18-118:2.

When asked whether anyone else was involved in the decision-making regarding the findings contained in the 301 CSR, March said that Valdez and Roy, after attending executive management meetings in which the McDonald case was discussed, each told Wojcik, Gallagher, and March that they agreed with their findings. No one other than Wojcik, Gallagher or March reviewed the 301 CSR prior to its final approval by Wojcik. Wojcik was the person “that actually went in the computer and actually approved the report.” 4/26/16 Tr. 266:1-3.

## 2. Gallagher<sup>44</sup>

On June 8, 2016, OIG investigators interviewed Gallagher under oath after informing him of his administrative advisements orally and in writing. He provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter. Attorney Thomas Needham was present for the interview. In summary, Gallagher stated as follows.

On October 20, 2014, Gallagher was working as the sergeant of an Area Central homicide team. He received a phone call saying that there had been a police-involved shooting at 4100 S. Pulaski. He assigned the case to March and responded to the scene. While at the scene, Gallagher had several conversations with CPD supervisors, including Wojcik, regarding what information they knew at the time. According to Gallagher, Wojcik was coordinating CPD’s effort to locate McDonald’s family.

Gallagher said that Wojcik subsequently oversaw the McDonald investigation and would let the investigative team know “if there [was] anything that need[ed] to be done.” Gallagher Tr. 118:24-119:2. According to Gallagher, Wojcik received updates on the case “if there was anything new.” Tr. 119:6.

With respect to his November 2, 2014 email to Wojcik,<sup>45</sup> Gallagher said that he was asking Wojcik to find out why Van Dyke’s police powers were stripped and why the investigative team was not informed regarding that decision. Gallagher said that nothing ever came of his email, and the investigative team never met with then-CPD Chief of Patrol Gulliford as Gallagher had suggested.

According to Gallagher, the investigation was later put on hold when CPD officers began being called to testify before a grand jury. The investigation was on hold until March 8, 2015, when Roy sent an email to Gallagher, Wojcik, Valdez, March, and possibly Hagen, who was also under Gallagher’s command, to set up a meeting to go over the facts of the case. With respect to

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<sup>44</sup> Gallagher resigned from City employment in response to the SRI OIG issued on July 29, 2016, which arose out of this same case.

<sup>45</sup> On November 2, 2014, Gallagher sent Wojcik an email with the subject “Police Shooting,” stating: “I think at some point we need to sit down with [former Chief of Patrol Wayne] Guilford [sic] and explain some of this to him.” Gallagher then proceeded to characterize the events of October 20, 2014, concluding that “Officer [Van Dyke] did exactly what he was trained to do. We should be applauding him not second guessing him.” Gallagher’s email further states: “Offender chose his fate. Possibly suicide by police.” OIG 15-0564 014570-71.

the meeting, Gallagher noted that “nobody throughout the chain said there was any issues with this case, this was deemed a justified shoot from day one.” Tr. 99:1-5.

The following day, Valdez and Roy met with attorneys from the City of Chicago Department of Law. After that meeting, Roy ordered the investigative team to finalize the reports for the case, because “it sound[ed] like they [were] going to settle this case.” Tr. 99:19-20. Gallagher was confused as to why the City was settling when the shooting had been deemed justified. When asked whether Wojcik shared his confusion, Gallagher stated: “I would say that all of us were dumbfounded. If you are saying that it is lawful, then why are we treating it different than any other shooting.” Tr. 135:1-5.

March drafted the CSR on the case, and Wojcik was the final approver of that report. Gallagher denied drafting any section of the CSR. After March prepared the CSR, Gallagher made grammatical corrections, but he did not recall making any substantive changes to the report. At some point, Wojcik told Gallagher that he was planning to draft the conclusion paragraph of the CSR. Gallagher believed that Wojcik added that conclusion after Gallagher reviewed the draft CSR.

### 3. Roy<sup>46</sup>

On July 6 and 7, 2016, OIG investigators interviewed Roy under oath after informing him of his administrative advisements orally and in writing. He provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter. Attorneys Laura Morask and Dean Morask were present for the interview. In summary, Roy stated as follows.

As of October 20, 2014, Roy was Commander of the Area Central Detective Division. That night he received a phone call from the Area Central homicide desk, notifying him that there had been a police-involved shooting at 40th and Pulaski. Roy responded to the scene, arriving at around 11:00 p.m. McDonald was no longer at the scene when Roy arrived. Roy said he spoke with March and Wojcik at the scene, but could not recall the specifics of those conversations.

Sometime after 1:00 a.m. on October 21, 2014, Roy left the scene of the shooting and drove to Area Central. When he arrived there, he “checked with Sergeant Gallagher to see about the progress of the case.” Roy 7/6/2016 Tr. 91:19-20. Gallagher told Roy that three civilian witnesses had been transported to Area Central from the scene of the shooting to be interviewed. Detectives Thomas Curran and Pete Torres, who interviewed the civilian witnesses at Area Central, subsequently briefed Roy as to “the substance” of those interviews. 7/6/2016 Tr. 109:14.

On October 22, 2014, Roy attended a meeting at which McNaughton briefed then-Superintendent Garry McCarthy on the “facts and circumstances surrounding the shooting.” 7/6/2016 Tr. 126:14-15. Roy said it was typical to have that sort of briefing after a police-involved shooting. During McNaughton’s presentation, he showed the 813R video of the

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<sup>46</sup> On August 17, 2016, OIG issued an SRI arising out of this same case, recommending Roy’s termination. Roy retired on September 16, 2016, and was placed on the ineligible for rehire list.



shooting. McCarthy raised concerns “about the number of shots that had been fired.” 7/6/2016 Tr. 131:21-22. Roy did not have any concerns about the number of shots Van Dyke fired.

After the October 22, 2014 shooting briefing, Roy told Wojcik, March, and Gallagher that “McNaughton briefed the Superintendent, and there were no questions regarding the appropriate use of deadly force.” 7/6/2016 Tr. 140:8-10. According to Roy, that conversation took place in November after Van Dyke was stripped of his police powers. Roy later added that he told Wojcik, March, and Gallagher in that conversation that he agreed that Van Dyke’s shooting of McDonald was lawful.

Roy further recalled that during that conversation March “was concerned that there appeared to be a disconnect between the fact that Officer Van Dyke had been stripped and, you know, the feedback that I had provided regarding the shooting briefing.” 7/6/2016 Tr. 144:19-22. In response to March’s concerns, Roy said that he would “look into it.” 7/6/2016 Tr. 145:24. Roy made some inquiries and learned that a number of officers had been interviewed by the Cook County State’s Attorney’s Office and the FBI, and that IPRA was investigating the incident.

As a result, in November 2014, Roy “told Wojcik, March, and Gallagher to stand down, that IPRA had the lead on the investigation and I didn’t want them doing anything.” 7/6/2016 Tr. 159:6-8. According to Roy, CPD did not take any investigative action with respect to the McDonald investigation from December 2014 through February 2015.

In March of 2015, Roy received a “request from our general counsel that the City corporation counsel wants the reports and wants to see the video” relating to the McDonald shooting. 7/6/2016 Tr. 182:6-8. Roy also learned that the City’s corporation counsel wanted a briefing on the case, and told March, Gallagher, and Wojcik that they needed to finish the investigative reports. Roy, along with Valdez, met with CPD general counsel and representatives from the City’s Department of Law. Either Roy or Valdez gave a presentation on the McDonald shooting and showed some video of the shooting.

Roy believed that March drafted the 301 CSR and submitted it to Wojcik and Gallagher for comments. Roy did not play a role in the drafting of the CSR. Roy initially stated he did not discuss the findings contained in the 301 CSR with Wojcik, March, and Gallagher prior to Wojcik’s approval. He later said that he “related to [Wojcik, March, and Gallagher] that there were no problems from the command structure of the police department with the shooting. If you want to take that as participating in the decision-making process, I don’t know that it is. Did I sit down with the three of them and convene a meeting to review it? No.” 7/7/2016 Tr. 51:8-15.

During the course of CPD’s investigation, Wojcik, Gallagher, and March were under Roy’s general supervision. Wojcik gave Roy updates “[w]henver something came up that merited attention.” 7/6/2016 Tr. 163:1-2. Roy said that March may have given him updates as well, but that he generally received his information regarding the case from Wojcik or Gallagher.



#### 4. Torres

On November 9, 2016, OIG investigators interviewed Torres under oath after informing him of his administrative advisements orally and in writing. He provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter. Attorney James McKay was present for the interview. In summary, Torres stated as follows.

As of October 20, 2014, Torres was a CPD detective assigned to Area Central's Special Victims Unit. Wojcik was one of his lieutenants. On the night of October 20, 2014, Torres and Curran were on their way back to Area Central when they heard over the radio an officer asking for a Taser. Torres later heard over the radio that someone had stabbed the wheel of a car. When Torres and Curran arrived at Area Central, they heard that police had fired shots and went to the scene to assist with the call.

Torres and Curran arrived at the scene of the shooting between 10:30 and 11 p.m. When they arrived, the area was cordoned off with yellow tape, and there were police vehicles blocking access to Pulaski. Torres and Curran walked over to the other CPD detectives and sergeants who were present and waited to be told what to do.

At some point, Curran told Torres that some potential witnesses to the shooting had been identified. Curran and Torres went over to the witnesses (later identified as Benitez, Gonzalez, and Garcia), and Torres was approximately ten feet away from them while Svec interviewed them. Torres could not hear Svec's conversation with the three witnesses, which took less than ten minutes. Torres did not remember if Svec took notes during the conversation. The witnesses then got into Svec's vehicle and headed to Area Central. Torres and Curran got into their vehicle and drove to Area Central.

Torres estimated that they arrived at Area Central between 11 and 11:30 p.m. Subsequently, Svec arrived with the witnesses. Svec placed Benitez and Gonzalez in a video office and Garcia in Wojcik's office. Torres introduced himself to Garcia and told him that he would be sitting close by if Garcia needed anything. Torres also told Garcia that the lead detectives were going to be speaking to him, and potentially a State's Attorney and IPRA investigators as well.

After approximately 90 minutes at Area Central, Torres advised Garcia that he was free to leave, and Garcia said he wanted to leave. Sergeant McGavock then directed Torres to obtain Garcia's contact information and take a brief statement from him so the lead detectives could follow up with him later.

Torres subsequently interviewed Garcia in Wojcik's office. No one else was present. Torres asked Garcia what he had seen. According to Torres, among other details, Garcia said that he saw the police chasing McDonald, heard three shots and then jumped onto the cab of his truck. Torres claimed that Garcia "didn't say that he saw anybody – anybody still shooting or who shot or anything like that." Torres Tr. 93:17-19. Torres also denied that Garcia told him that he heard more than three gunshots or that certain of the shots Van Dyke fired were unnecessary.

Torres took notes on a GPR during the interview, which took less than ten minutes. Torres put that GPR on a desk at Area Central where the other detectives were placing their GPRs. Curran interviewed Benitez and Gonzalez but did not brief Torres as to what they said. Ten minutes after Torres's interview with Garcia concluded, Torres and Curran took Garcia, Benitez, and Gonzalez back to the scene of the shooting.

When shown the GPR related to the Garcia interview, *see supra* IV(D)(4), Torres said that he first saw the GPR in 2015 "when the FBI came to Area Central to question [CPD] about the shooting." Tr. 98:14-15. The FBI gave him a copy of the GPR. Prior to Torres's interview by the FBI, Wojcik informed Torres via telephone that Torres's original GPR "had gotten damaged by coffee, so that [Wojcik] had to rewrite it and that the original was destroyed." Tr. 101:15-17. Wojcik added that he had left the GPRs out to go eat and when he came back "there was coffee spilled all over the GPRs." 105:1-2. Wojcik told Torres that he rewrote the GPR himself based off the coffee-damaged GPR. Wojcik did not tell Torres what he did with the coffee-damaged GPR.

Wojcik never asked Torres to review the GPR that he rewrote and did not inform Torres of the damage to his original GPR at the time it occurred. When asked whether he found it unusual that Wojcik did not give him a chance to review the GPR, Torres responded: "Well, this was a year later down the road, so, I mean, I – I didn't think about asking him can I see the – that GPR now that, you know – at the time we were at like over a year ago." Tr. 104:11-15. Torres was not aware of another instance where someone else had rewritten a GPR originally written by him.

Torres's assessment of the rewritten GPR was that it was "pretty much accurate from what I recalled from taking [Garcia's] statement that night." Tr. 108:16-17. However, Torres did not know whether Wojcik's GPR was a word-for-word re-write of Torres's GPR. When asked whether he recalled any statements that Garcia made to him during the interview that were not contained in Wojcik's re-written GPR, Torres responded: "Without having my original GPR, I – I'm – this is pretty fair and inaccurate [sic] as far as I can tell, but without having my, you know, original GPR, I just can't [tell]." Tr. 126:11-14.

## 5. Curran

On October 19, 2016, OIG investigators interviewed Curran under oath after informing him of his administrative advisements orally and in writing. He provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter. Attorney James McKay was present for the interview. In summary, Curran stated as follows.

### a) *The Scene of the Shooting*

As of October 20, 2014, Curran was a CPD detective assigned to Area Central's Special Victims Unit. That night, Curran and Detective Torres were monitoring the radio while on duty and eating dinner in the 8th District. As they were heading back to Area Central, they heard a radio call asking for assistance and requesting officers with Tasers. As they neared Area Central, they

heard over the radio that shots had been fired by the police. Upon arriving at Area Central, they were told that any available detective should go to the scene and provide assistance. Curran and Torres then left Area Central and went to 41st and Pulaski.

When Curran arrived on the scene, McDonald was no longer present. At some point, Gallagher asked Curran to bring some witnesses to Area Central “so that the lead detectives at the time could speak to [the witnesses] later.” Curran Tr. 41:15-17. Specifically, Curran recalled that “[t]here was a TV camera out there, and who we later found out to be Alma Benitez, she was talking about what was going on or something along those lines, so that obviously drew the attention of the police to possibly having a witness there.” Tr. 43:12-17.

Gallagher asked Curran, Torres, and Detective Svec to “go over there and find out if she is a witness and if there [were] any other witnesses.” Tr. 47:21-23. The detectives went to the Burger King parking lot, where they found Benitez and two men. Svec spoke to the three witnesses and eventually brought them back to Area Central.

While at the scene of the shooting, Svec did most of the speaking with the three witnesses. Curran “wasn’t really part of that conversation.” Tr. 51:24. When asked whether the witnesses said that they had seen the shooting, Curran responded, “I mean, I can’t be specific, because like I said, I didn’t take any notes on it. It was two years ago, so I don’t really remember if they said they actually physically saw it, but they were definitely there, heard it for sure. I could say that for sure.” Tr. 53:3-8.

Curran and Torres were at the scene of the shooting for approximately 30 to 40 minutes, after which they returned to Area Central.

*b) Area Central*

Curran and Torres arrived at Area Central shortly after leaving the scene of the shooting. At that point, neither March nor Wojcik had returned to Area Central.

The three witnesses from the scene of the shooting were put into rooms at Area Central. Garcia was put in Wojcik’s office. Curran and Torres were responsible for keeping the witnesses happy while they waited for the lead detectives on the case to return to Area Central and conduct interviews. Tr. 68:15-16.

At some point, the witnesses stated that they wanted to leave. Curran asked if the witnesses would “mind doing a quick statement and then we will get you back, and they agreed no problem.” Tr. 73:2-4.

Curran took statements from Gonzalez and Benitez. He took notes on a GPR during those interviews. However, when OIG showed him the Garcia and Benitez GPRs, Curran said, “This is not my GPR.” Tr. 76:8. Curran noted that, “as you can see at the bottom of the person who authored it, [I] later found out it was Tony Wojcik, the lieutenant, and I believe that’s his star number.” Tr. 76:11-15. Curran added, “I wrote the GPR out, and then at some point after the

interviews were done and all that stuff, at some point during the night, they were handed in with other GPRs onto a desk. . . . That was the last time I saw it.” Tr. 77:12-17.

Curran believed that, as of the time of his OIG interview, his original GPRs did not exist:

As it was explained to me, and this was just about a year ago. So this was a year after this happened and a year prior to this. I was told by Lieutenant Wojcik that he was typing up – helping type out the Supplementary Detectives Report, and that at some point when he left his office to go to lunch or whatever it was, when he came back, my GPRs along with Pete’s, and there may have been another one on there, was soaked in coffee; that there was actually like spilled coffee and that they had been sitting there basically drenched, and I was told that he took the – what he could read over, and I guess he had possibly have [sic] typed up the Supp already so he was looking at that to put down what was on the GPR. . . . So it was coffee, and that’s why mine cannot exist, because I guess it was thrown away at that point. . . . So yeah, these are definitely not my GPRs or Pete’s.”

Tr. 78:21-79:20.

Curran did not recall the exact times when he interviewed Garcia and Benitez, and did not know whether the times on Wojcik’s recreated GPR accurately reflected the interview times. When asked whether Wojcik’s recreated GPR differed from his recollection of his original GPR, Curran said, “I can’t say same word-for-word, but I don’t see any glaring differences, if that’s what you are asking.” Tr. 94:2-4.

Curran believed he first learned what happened to his original GPR in September 2015. He learned about the coffee spill from Wojcik himself, but Wojcik did not tell him exactly when the spill had happened. Wojcik told Curran that:

[O]bviously it was damaged and that it couldn’t be saved and that he tried to copy it to the best of his ability, and he just explained to me, he is like, he goes, I tried to copy it the best I could so. . . . Obviously, he goes that’s why I put my name at the bottom so there is no inconsistency. He is like, I didn’t sign your name that’s why I put my name. So basically he told me this is now my GPR, so yeah, no. He was not trying to make it my GPR if that’s what you are asking.

Tr. 124:2-18.

## 6. Svec

On December 19, 2016, OIG investigators interviewed Svec after informing her of her administrative advisements orally and in writing. She provided oral and written acknowledgment of the reading of those advisements. The interview was transcribed by a certified court reporter. Attorney William Fahy was present for the interview. In summary, Svec stated as follows.

As of October 20, 2014, Svec was a CPD detective assigned to Area Central. While at Area Central that evening, she heard that there was a police-involved shooting and drove to the scene of the shooting by herself. Upon arriving at the scene, Svec walked over to a gathering of sergeants and detectives and overheard that an officer had shot a person who had been armed with a knife and stabbed a tire. Svec could not identify the individuals who were part of that gathering.

A few minutes after Svec arrived at the scene, she saw three people up on a semi-truck in the Burger King parking lot. Svec walked over to the semi-truck, obtained contact information from the individuals, and took a statement from each of them as to what they had witnessed. Svec said she took notes of the interviews on GPRs. She completed a separate GPR for each of the three people. According to Svec, “none of the three specifically saw the shooting.” Svec Tr. 36:15-16. The interviews collectively lasted at least ten minutes. No one else was present when Svec was conducting the interviews.

After Svec completed the interviews, she went over to Sergeant Gallagher and informed him that she had identified “three people that didn’t actually witness the shooting, but witnessed the individual being chased by police.” Tr. 48:9-12. Gallagher told her to see if the witnesses would come to Area Central. Svec told the witnesses that the lead detective would like to interview them and asked them to come to Area Central. The witnesses agreed and Svec drove them to Area Central, stopping for food along the way. Svec estimated that she was at the scene of the shooting for 30 to 60 minutes.

After arriving at Area Central, Svec took Garcia to one office and Gonzalez and Benitez to another. Svec then went back to her desk, gathered her things, and told the witnesses that she was leaving and that the lead detective would be coming in shortly. After she walked out of the room Benitez and Gonzalez were in, she saw Curran going into the room and told him: “Hey, listen, I already GPRed them. You don’t need to do GPRs on them.” Tr. 97:4-5. Svec said she handed in her GPRs before she let the witnesses know she was leaving. She did not have a specific recollection of where she placed the GPRs, though. Svec estimated she was at Area Central for less than an hour before she left.

At least a week after October 20, 2014, March, while at Area Central, informed Svec that she had not signed one of the GPRs she completed at the scene of the shooting. March handed her the GPR and asked her to sign it. Svec explained that March sat behind her at Area Central at the time of this conversation.

In September 2015, when Svec was at Area Central to meet with the FBI or U.S. Attorney’s Office regarding the McDonald case, Wojcik told Svec that the GPRs relating to her October 20, 2014 civilian witness interviews had been lost. Wojcik assured her that the GPRs would be found, but Svec never subsequently received any indication that CPD found the GPRs. Svec never received an explanation as to how her GPRs could have gone missing, and she described the missing GPRs as “odd.” Tr. 102:10.



Curran was also present during the meeting between Svec and Wojcik, which took place in an Area Central office. According to Svec, Wojcik told Curran that coffee had been spilled on the GPRs Curran and Torres had completed and that he had rewritten them. Svec did not remember if Torres was present during the meeting.

Wojcik never communicated with Svec again regarding the missing GPRs. This was the only time in Svec's career as a detective in which her GPRs had gone missing.

## 7.      OIG Attempts to Interview Wojcik

On May 13, 2016, pursuant to Section 6.1 of the CBA between the City of Chicago and FOP, OIG provided CPD's Bureau of Internal Affairs with a Notification of Interview and Notification of Allegations, among other documents, to serve upon Wojcik. However, on May 18, 2016, BIA informed OIG that when BIA attempted to serve the notifications on Wojcik, he told BIA that he retired effective May 15, 2016.<sup>47</sup>

Accordingly, on June 20, 2016, OIG sent a subpoena to Wojcik via certified mail, requesting that Wojcik provide testimony to OIG on July 8, 2016. In response, by letter dated June 30, 2016, Wojcik's attorney, Darren O'Brien, objected to the subpoena, claiming that OIG's subpoena power did not extend to former City employees.

OIG subsequently contacted O'Brien, informed him that the objection to the Subpoena was without merit, explained the extent of OIG's subpoena power, and asked him to reconsider his position. After multiple unsuccessful attempts to resolve the matter with O'Brien, on December 8, 2016, the City's corporation counsel, through special assistant corporation counsel, filed a complaint on behalf of OIG in the Circuit Court of Cook County to enforce the subpoena. On May 23, 2017, Judge Thomas Allen denied Wojcik's motion to dismiss OIG's complaint, holding that OIG's subpoena power extends to former City employees. On July 6, 2017, the court entered judgment in favor of OIG and ordered Wojcik to comply with OIG's lawful and enforceable subpoena.

By letter dated August 2, 2017, Wojcik's counsel informed OIG that Wojcik would invoke his Fifth Amendment right against self-incrimination and would not appear for an interview with OIG: "As a result of the Court's ruling on [OIG's] complaint and as a special grand jury remains in session, I have advised Mr. Wojcik to remain silent pursuant to the constitutional right of every U.S. citizen to do so. Mr. Wojcik has elected to follow my advice and will remain silent."

## V.      ANALYSIS

OIG's investigation established that Wojcik made false statements and misleading characterizations in CPD reports related to the McDonald shooting that he later approved as a supervisor. These false statements each served a similar purpose: to materially exaggerate the threat posed by McDonald. Additionally, Wojcik improperly disposed of Curran and Torres's

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<sup>47</sup> CPD records reflect that Wojcik initiated his retirement on April 15, 2016, approximately one month after OIG conducted its first subject interview of a CPD police officer as part of its McDonald investigation.



GPRs, which contained their handwritten notes of Benitez, Garcia, and Gonzalez's statements, and failed to document that disposal. Moreover, Wojcik did not ask Curran and Torres to review for accuracy the GPRs he recreated and did not inform them that he recreated their original GPRs until several months after CPD officially closed its investigation of the shooting. In addition, Wojcik failed to ensure that the McDonald investigative team documented its loss of Svec's GPRs, which also contained statements made by Benitez, Garcia, and Gonzalez the night of the shooting.

Wojcik's actions, individually and collectively, constitute violations of CPD Rules. Each of Wojcik's false statements, including those in the CSR for which he is listed as a reporting officer and approver, constitutes a violation of Rule 14 (making a false report, written or oral). His false statements and failure to perform and supervise a thorough and properly documented investigation also constitute violations of Rule 2 (engaging in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department), Rule 3 (failing to promote the Department's efforts to implement its policy and accomplish its goals) and Rule 11 (incompetency in the performance of a duty). Wojcik's failure to preserve material evidence and document the loss of that evidence violates Rule 2, Rule 6 (disobedience of an order or directive, whether written or oral), and Rule 11.

#### **A. Wojcik's False Statements in the 301 Case Supplementary Report**

Wojcik is directly responsible for the false statements contained in the March 16, 2015 301 CSR. Not only was the CSR submitted by a detective under Wojcik's supervision and command, it was submitted as the report of Wojcik, himself. Wojcik's March 15, 2015 email, in which he sent March the conclusory paragraph of the 301 CSR, stating that Van Dyke's use of force was lawful, confirms that Wojcik played a key role in the drafting of the 301 CSR. In addition, both March and Gallagher made clear in their OIG interviews that Wojcik was directly involved in the creation of the report and that Wojcik was responsible for approving the report.

The 301 CSR includes at least two false statements. First, it falsely states that the "recovered in-car camera video from Beats 845R and 813R was viewed and found to be consistent with the accounts of all of the witnesses." OIG 15-0564 003075. Second, the CSR contains the false statement that "McDonald initiated the imminent use of force likely to cause death or serious injury when he initiated an attack on Officers Jason Van Dyke and Joseph Walsh." OIG 15-0564 003078.

Contrary to the conclusion reached in the 301 CSR, the dashcam videos of the McDonald shooting are not consistent with the accounts attributed to witnesses. The 301 CSR contains the following statements attributed to witnesses:

- Van Dyke: "When McDonald got to within 10 to 15 feet of Officer Van Dyke, McDonald looked toward Van Dyke. McDonald raised the knife across his chest and over his shoulder, pointing the knife at Van Dyke." OIG 15-0564 003065-66.

- Van Dyke: “In defense of his life, Van Dyke backpedaled and fired his handgun at McDonald to stop the attack.” OIG 15-0564 003066.
- Van Dyke: “Van Dyke continued to fire his weapon at McDonald as McDonald was on the ground, as McDonald appeared to be attempting to get up, all while continuing to point the knife at Van Dyke.” OIG 15-0564 003066.
- Walsh: “Walsh ordered McDonald to ‘Drop the knife!’ multiple times as McDonald approached the officers.” OIG 15-0564 003067.
- Walsh: “Walsh also backed up, attempting to maintain a safe distance between himself and McDonald.” OIG 15-0564 003067.
- Walsh: “McDonald ignored the verbal direction given by both Walsh and Officer Van Dyke and continued to advance toward the officers.” OIG 15-0564 003067.
- Walsh: “When McDonald got to within 12 to 15 feet of the officers he swung the knife toward the officers in an aggressive manner.” OIG 15-0564 003067.
- Fontaine: “McDonald ignored the verbal direction and instead, raised his right arm toward Officer Van Dyke, as if attacking Van Dyke.” OIG 15-0564 003071.
- Viramontes: “McDonald fell to the ground but continued to move, attempting to get back up, with the knife still in his hand.” OIG 15-0564 003071.

Each of these statements is refuted by the dashcam video footage of the shooting. The video footage of the shooting shows that, before Van Dyke shot McDonald, McDonald was walking in a southwest direction, away from Van Dyke and Walsh, and that it was in fact Walsh and Van Dyke who were moving toward McDonald. The 813R video further establishes that McDonald did not raise the knife he was holding over his shoulder, did not raise his arm toward Van Dyke as if attacking Van Dyke, and did not swing the knife toward Van Dyke and Walsh in an “aggressive” manner. In addition, the videos demonstrate that Van Dyke and Walsh never backpedaled prior to the shooting, but rather either moved toward McDonald or stayed still. Finally, the video makes clear that, upon being shot and falling to the street, McDonald never attempted to get up. The video shows that McDonald, once on the ground, did not move his legs or lower body. McDonald’s upper body made small, intermittent movements as what appear to be puffs of smoke rose from his body, but those small movements are demonstrably not suggestive of a person trying to get up or get to his feet. Thus, the 301 CSR’s conclusion that the video evidence is consistent with the witness accounts is a materially false statement.

The 301 CSR’s finding that McDonald “initiated the imminent use of force likely to cause death or serious injury when he initiated an attack on Officers Jason Van Dyke and Joseph Walsh,” is similarly belied by the video evidence. As summarized, *supra*, the video footage shows McDonald moving away from Van Dyke and Walsh during the entire period of time for which Van Dyke and Walsh were outside of their car and does not show him making any movement

toward them which could appropriately be characterized as “initiat[ing] an attack.”<sup>48</sup> Accordingly, that finding is also materially false.<sup>49</sup>

## **B. Wojcik’s Disposal of Material Evidence**

Wojcik also violated CPD Rules by disposing of material evidence during the McDonald investigation and by failing to ensure that that disposal was documented in the reports he approved. BDSO 14-14, later re-issued as BDSO 15-14, directs that “[a]ll evidence, whether inculpatory or exculpatory, will be identified, preserved, and documented.” With respect to the GPRs that Curran and Torres completed at Area Central the night of the shooting regarding their interviews of Gonzalez, Garcia, and Benitez, the evidence reflects that Wojcik disposed of the original GPRs while they were in his possession. *See* Curran Tr. 78:21-79:20, Tr. 124:2-4 (stating that Wojcik told him that coffee was spilled on Curran’s GPRs while they were on Wojcik’s desk and that they were “damaged” and could not be saved). According to Curran and Torres, it was not until they were called for interview by the FBI in or about September 2015 (nearly a year after the original GPRs had been generated and approximately six months after the CPD investigation of the incident was officially closed) that Wojcik told them that he had rewritten their GPRs without consulting them, signed the reports with his own name, and had not preserved the originals. Wojcik’s alleged purported ability to accurately recreate Curran and Torres’s GPRs from the originals belies Wojcik’s statement to Curran that spilled coffee destroyed the originals.

Other than Wojcik’s handwritten notations on the recreated GPRs, which state that the GPRs are copies of Curran and Torres’s GPRs, the investigative file does not reflect that Wojcik disposed of the detectives’ original GPRs. In addition, Curran and Torres’s testimony demonstrates that, absent the FBI’s investigation, Wojcik would likely never have disclosed his role in the destruction of material evidence.

OIG sought to interview Wojcik, thus providing him with an opportunity to explain his actions. Rather than submit to interview, he filed a legal action in the Circuit Court of Cook County raising specious arguments challenging OIG’s subpoena power. Notably, after losing that legal challenge, Wojcik invoked his Fifth Amendment right against self-incrimination and remained silent.

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<sup>48</sup> For similar reasons, the statement in the 339 CSR that “Criminal Attacked Officer That Officer Killed Criminal,” is also a false statement.

<sup>49</sup> The HX-486155 Case Incident Report, also produced under Wojcik’s supervision, contained the false statement that “McDonald committed aggravated assaults against the three officers, finally forcing Officer Van Dyke, in defense of his life, to shoot and kill McDonald.” OIG 15-0564 003300. As set forth above, the objective evidence belies the factual assertion that McDonald “forc[ed]” Van Dyke to shoot him. To the extent that the report makes a legal conclusion regarding Van Dyke’s use of force, pursuant to the BDSOs, such a conclusion was not procedurally appropriate. *See* BDSO 15-22 (prohibiting detectives from stating that the use of deadly force was justified). In addition, contrary to the requirements of BDSO 15-22, the details of the investigation related to the McDonald shooting were reported under the RD number classified as an aggravated assault (HX-475653), rather than the RD number classified as a justifiable homicide (HX-486155).

**C. Wojcik's Failure to Ensure the McDonald Investigative Team Documented its Loss of Material Evidence**

Under Wojcik's supervision, the McDonald investigative team also lost the GPRs Detective Svec completed at the scene of the shooting regarding her interviews of Gonzalez, Garcia, and Benitez. Wojcik was aware of the lost GPRs, as he was the person who informed Svec in an in-person meeting that her reports were missing and then assured her that CPD would find the reports. According to Svec, though, CPD never located her GPRs, and those GPRs were not included in the materials that CPD provided to OIG.

Wojcik violated CPD Rules and Regulations by failing to ensure that the investigative team documented the loss of Svec's GPRs. *See* BDSO 14-14 & 15-14 (stating that "[a]ll evidence, whether inculpatory or exculpatory, will be identified, preserved, and documented"); *see also* CPD Rules and Regulations, Article IV(B) (stating that supervisory members "have the responsibility for the performance of all subordinates placed under them" and they "[r]emain accountable for the failure, misconduct or omission by their subordinates"). Specifically, Wojcik approved the 301 CSR, even though it made no mention of Svec's GPRs or the fact that CPD had lost those reports. As a result, there is no record in the McDonald investigative file of Svec conducting witness interviews at the scene of the shooting. That omission is particularly egregious because Garcia, one of the witnesses Svec interviewed, claimed he told CPD that night that he saw the shooting and further described it as an "execution." Garcia Tr. 44:19. Thus, Wojcik allowed his investigative team to violate the Bureau of Detectives Special Orders by failing to document its loss of material, potential inculpatory evidence that may have contradicted its investigatory findings.

Therefore, under Wojcik's watch, the McDonald investigative team lost or failed to preserve all six of the original GPRs that documented Gonzalez, Garcia, and Benitez's statements to CPD on the night of the shooting and failed to document the circumstances through which those reports were lost. Given that Gonzalez, Garcia, and Benitez were all to some extent critical of CPD's actions on the night of October 20, 2014, Wojcik's actions bring discredit upon the department because they create the appearance of impropriety: namely, that Wojcik and the McDonald investigative team purposely destroyed evidence that ran counter to its investigative findings. *Cf.* Svec Tr. 102:10 (stating that she found the loss of her GPRs "odd" and that in her career as a detective she had never had a GPR lost). Because of Wojcik's actions, specifically his failure to document the loss of that evidence, it is difficult for CPD to definitively refute such allegations.

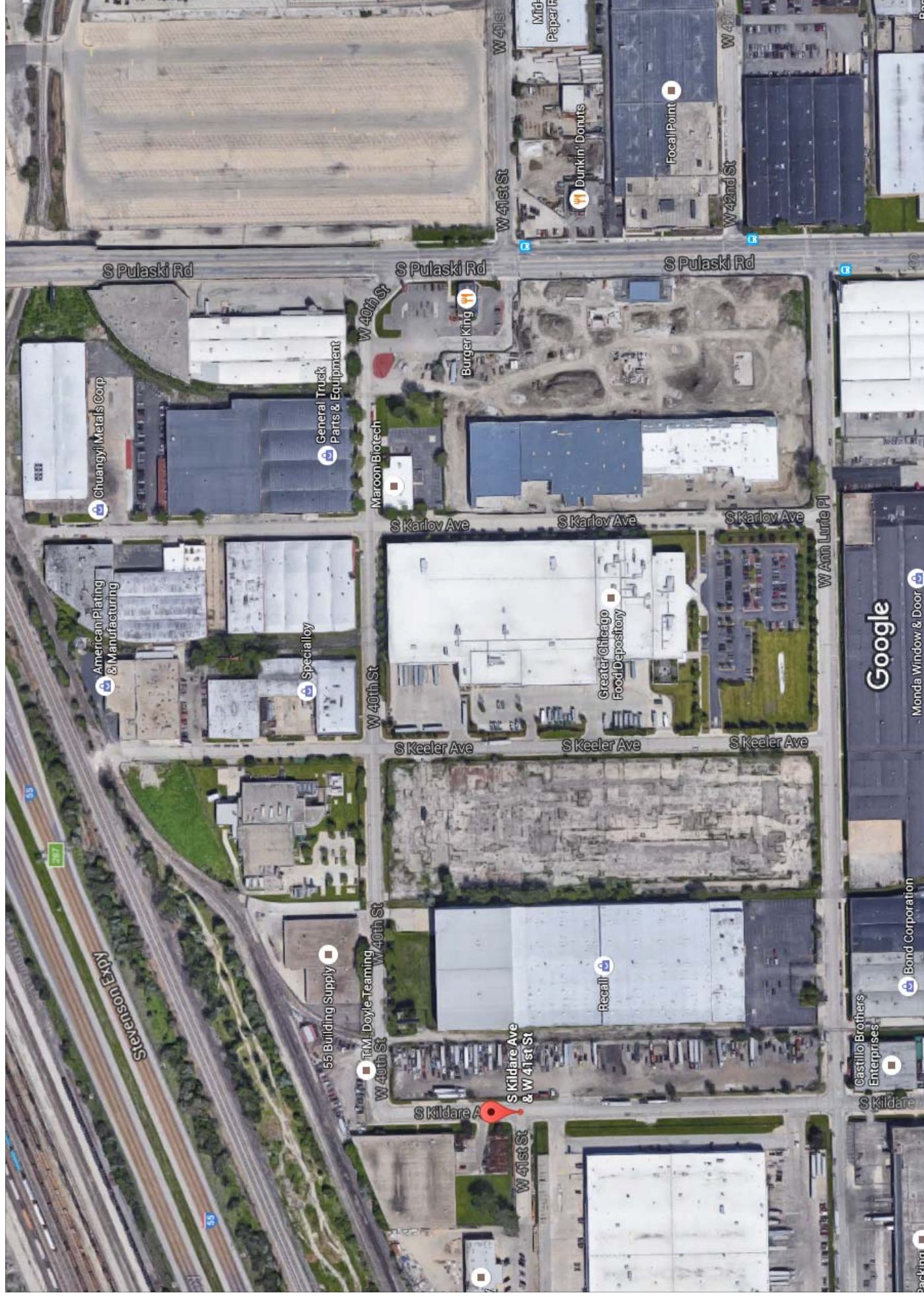
For Wojcik's numerous violations of CPD Rules and Regulations, OIG recommends that CPD issue a formal determination on OIG's findings, and place this report in Wojcik's personnel file for consideration in the event Wojcik applies for re-employment with the City. OIG further recommends that CPD, based on its findings, rescind Wojcik's retirement identification card and retirement star, as Wojcik retired when he was the subject of an investigation that ultimately determined he engaged in misconduct warranting his discharge. In addition, OIG recommends that CPD communicate to the IROCC program that Wojcik is not in "good standing" and should be removed from the program.

**VI. CPD RULE VIOLATIONS**

- Rule 2** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 6** Disobedience of an order or directive, whether written or oral.
- Rule 11** Incompetency or inefficiency in the performance of duty.
- Rule 14** Making a false report, written or oral.

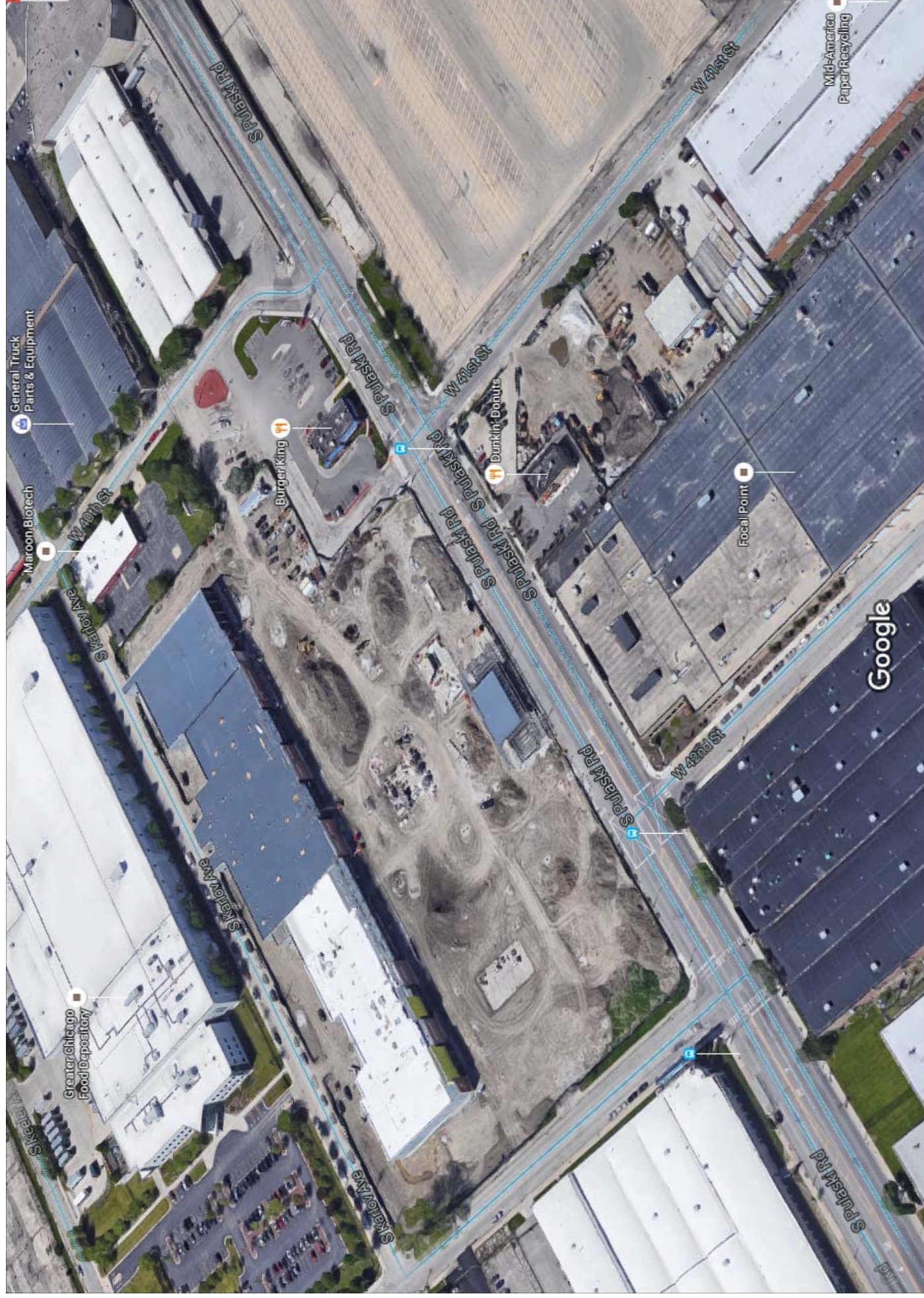
# Appendix A





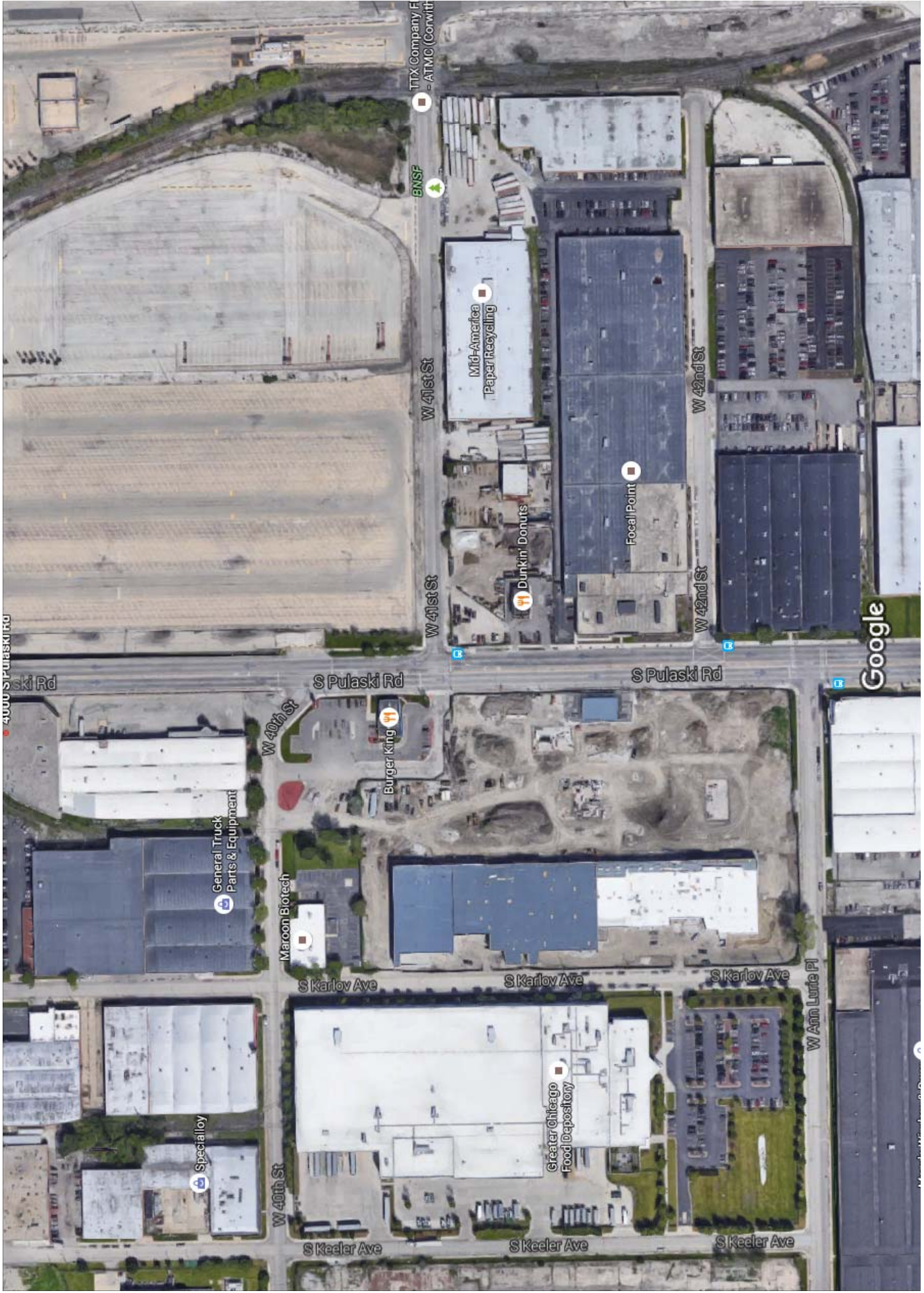
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